

46. (New) The method as claimed in claim 40, wherein some or all of said gaming data is received with said audiovisual data.

47. (New) The method as claimed in claim 40, wherein some or all of the gaming data is received from the central gaming computer means via said communications server.

48. (New) The method as claimed in claim 40, wherein said event comprises a real-time sporting event.

### REMARKS

Please reconsider the application in view of the above amendments and the following remarks. The Applicant thanks the Examiner for carefully reviewing the application. A new title that is clearly indicative of the invention to which the claims are directed was required. Accordingly, the title has been replaced. Additionally, an abstract has been added as required by 37 CFR §1.72 (b). In view of the following remarks, the Applicant believes this application is in condition for allowance.

#### **I. Disposition of Claims**

Claims 1-26 were pending in the application. Claims 1-26 have been cancelled. Further, claims 29-48 have been added to more clearly define the Applicant's invention. These new claims are fully supported by the original specification. No new matter has been added by way of these amendments.

#### **II. Claim Rejections under 35 U.S.C. §102**

Claims 1-26 were rejected under 35 U.S.C. §102 (b) as being anticipated by U. S. Patent No. 5,851,149 ("Xidos"). Claims 1-26 have been cancelled by this reply. Thus, this rejection is moot. Accordingly, withdrawal of the rejection is respectfully requested. To the

extent this rejection may apply to the newly presented claims, withdrawal of this rejection is respectfully requested. Claims 29 and 40 are independent claims. The remaining claims depend, directly or indirectly, from one of these claims.

With respect to claims 29 and 40, Xidos does not disclose an interactive gaming and audiovisual transmission system that includes “a central gaming computer means for processing gaming data, and a receiver/decoder for receiving broadcast audiovisual data relating to a broadcast event, and for receiving from the central gaming computer means gaming data relating to the broadcast event; the receiver/decoder including a subscription card reading device for interacting with a user’s subscription card for providing user access to a broadcast event, a bank card reading device for interacting with a user’s bank card to read data stored thereon, and a modem device for communicating data read from the user’s bank card to a communication server connected to a bank server holding the user’s bank account for transferring in response to said data credit from the user’s bank account to a gaming account at the central gaming computer means in order to permit gaming in relation to the broadcast event,” as recited by claim 29 and 40.

In particular, Xidos is completely silent to the use of a subscription card reading device for a subscription card as required by claims 29 and 40. In one or more embodiments, the subscription card provides access to a broadcast event. The subscription card contains decryption keys associated with the system that allows a user to access the broadcast event. The claimed invention also uses a bank card (or other cards) to provide access to the user’s bank account, such that funds may be transferred to a gaming account. Thus, the claimed invention requires a dual card system.

Advantageously, a dual card system provides two-level security, thereby preventing unauthorized users. Additionally, access to the broadcast event is provided or prohibited at the user’s discretion and without requiring participation in the gaming associated with the broadcast event.

In contrast, Xidos does not disclose or suggest a subscription card reading device or a subscription card as required by claims 29 and 40. In fact, Xidos discloses a providing immediate access (*e.g.*, promotional, informational, tutorial, and Free Play game mode) by simply changing the channel using a television remote (col. 5, ll. 8-18). In order to prevent immediate access as disclosed by Xidos, Player Support Staff must create a restriction to the location of the particular modem desiring restricted access (col. 11, ll. 55-59). Thus, Xidos does not disclose or suggest a subscription card reading device, consequently Xidos lacks the dual card system required by claims 29 and 40.

Furthermore, Xidos does not disclose or suggest a modem that communicates and transfers data “in order to permit gaming in relation to the broadcast event.” In other words, the claimed invention, in one or more embodiments, provides a “third-party” interactive gaming system in which a user may view (as a third-party) a broadcast event, *e.g.*, horse race, televised live action sporting events, or casino-type games, etc. As such, data is communicated via a modem in relation to the broadcast event. In contrast, the system as disclosed by Xidos is a “first-party” gaming system in which a user participates in the game session (as a first-party), therefore communication and transference of data is in relation to game activity generated by the user (col. 13, ll. 4-20), rather than the broadcast event which is independent of the user. Xidos is completely silent to the modem communicating and transferring data in order to permit gaming in relation to the broadcast event.

Because Xidos fails to disclose or suggest all of the limitations of claims 29 and 40, Xidos does not anticipate nor render obvious the claimed invention. Claims 30-39 and 41-48 depend, directly or indirectly, from claims 29 and 40, and thus are patentable for at least the same reasons as those presented above with respect to claims 29 and 40.


### **III. Concluding Remarks**

Applicant believes this reply to be fully responsive to all points raised in the Office Action dated August 8, 2002. If this belief is incorrect, or other issues arise, please do not

hesitate to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345.025001).

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Respectfully submitted,

  
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